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10/647,212	08/26/2003	Max Fudim	P-5761-US	1932
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PEARL COHEN ZEDEK LATZER, LLP 1500 BROADWAY, 12TH FLOOR NEW YORK, NY 10036			EXAMINER	
			CHURNET, DARGAYE H	
ART UNIT		PAPER NUMBER		
2619				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/647,212	<b>Applicant(s)</b> FUDIM ET AL.
	<b>Examiner</b> DARGAYE H. CHURNET	<b>Art Unit</b> 2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 July 2007.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-31 is/are pending in the application.

4a) Of the above claim(s) 8 and 25 is/are withdrawn from consideration.

5) Claim(s) 1-4,11-21 and 28-31 is/are allowed.

6) Claim(s) 5,9,10,22,26 and 27 is/are rejected.

7) Claim(s) 6,7,11-21,23 and 24 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 26 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) *Notice of Draftsperson's Patent Drawing Review (PTO-544)*

3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**Detailed Action**

***Claim Objections***

1. Claims 11-21 are objected to because of the following informalities: For claim 1, line 7, it appears as though "point disassociating" should be changed to ---point while disassociating---. Claims 12-21 are objected to as being dependent on claim 11. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 5 is rejected under 35 U.S.C. 102(e) as being anticipated by Diepstraten et al. (cited 5,991,287).

For claim 5, Diepstraten et al. disclose an apparatus comprising: a supplicant unit (see figure 1, box 50, wherein the mobile station 50 is the supplicant unit) to provide first and second secured connections to a first (see fig. 1, AP 40) and a second access point (see fig. 1, AP 41) on first and second ports (see fig. 1, inherently within AP 40 and AP 41), respectively, and to present a power saving mode to the first access point (see

figure 4, wherein the mobile station remains in a power save mode with the first AP from boxes 403-406) while unauthorizing the second port to enable establishment of the second secured connection with the second access point (see fig. 4, boxes 407 and 408, wherein the first AP is still in power save mode while establishing a connection with a second AP, and wherein “unauthorizing the second port” is neither structurally nor functionally defined in the claim). Claim 22 is rejected for similar reasons.

***Claim Rejections - 35 USC § 103***

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 10, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diepstraten et al. in view of Liu et al. (cited 7,177,637 B2).

For claim 9, Diepstraten et al. fail to disclose the first port being authorized and the second port is in an unauthorized mode while performing a secured communication with the first access point. Liu et al. from the same or similar fields of endeavor teaches the first port being authorized and the second port is in an unauthorized mode while performing a secured communication with the first access point (see figure 3, wherein AP1 is in private mode, which only allows authorized devices and AP2 is in public mode which allows non-authorized devices). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to incorporate the elements above stated by Liu et al. in the network of Diepstraten et al. The method taught by Liu et al. is modified/implemented into the network of Diepstraten et al. by having access points with different modes allowing authorized devices and not allowing unauthorized devices.

The motivation f the first port being authorized and the second port is in an unauthorized mode while performing a secured communication with the first access point is to have authorized devices communicate with a specific access point. Claim 26 is rejected for similar reasons.

For claim 10, Diepstraten et al. fails to disclose the second port being authorized and the first port is in an unauthorized mode while in secured communication with the second access point. Liu et al. from the same or similar fields of endeavor teaches the second port being authorized and the first port is in an unauthorized mode while in secured communication with the second access point (see figure 3, wherein AP1 is in private mode, which only allows authorized devices and AP2 is in public mode which allows non-authorized devices). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to incorporate the elements above stated by Liu et al. in the network of Diepstraten et al. The method taught by Liu et al. is modified/implemented into the network of Diepstraten et al. by having access points with different modes allowing authorized devices and not allowing unauthorized devices. The motivation for the second port being authorized and the first port is in an unauthorized mode while in secured communication with the second access point is to have authorized devices communicate with a specific access point. Claim is 27 is rejected for similar reasons.

***Allowable Subject Matter***

6. Claims 6, 7, 23, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 1-4, 11-21, and 28-31 are allowed.

***Response to Arguments***

8. Applicant's arguments filed with respect to claims 5 and 22 have been fully considered but they are not persuasive.

On page 14 of Remarks, applicant argues that Diepstraten does not disclose "a supplicant unit to provide first and second secured connections to a first and a second access point on first and second ports, respectively, and to present a power saving mode to the first access point while unauthorizing the second port to enable establishment of the second secured connection with the second access point". However, with reference to figures 1 and 4, Diepstraten discloses a mobile station 40 capable a first secured connection with a first access point AP 40 and a second secured connection with a second access point AP 41, where both AP 40 and AP 41 inherently contain ports, and wherein the mobile station presents a power saving mode to AP 40 from boxes 403-406 of figure 4, while establishing the second secured connection with AP 41 in boxes 407 and 408.

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9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dargaye H. Churnet whose telephone number is 571-270-1417. The examiner can normally be reached on Monday-Friday from 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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